



## **Implementation of Licensing Services in the Perspective of State Administrative Law in Indonesia**

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### **Abstract**

Quality services are services provided to customers in accordance with the services standard, but public services, especially in the licensing sector, are often found to be disappointing in Indonesia, even though licensing has been regulated by State Administrative Law, there are still many problems in the administration of these permits. From the problem of the licensing system which is complicated and long - winded to the problems that comes from licensing employees itself, namely the practice of illegal levies (extortion) which is often carried out by the licensing services employees themselves, thus harming the people who need the permits. Licensing service procedures such as one - stop integrated services makes people who are lazy to take a queue and finally choose to bribe the employees so that it gives the employees an opportunity to practice extortion. For this reason, attention is needed from the government to improve the licensing system so that licensing is easier, and the role of law enforcement officers is needed to take firm action against licensing services employees who practice extortion so that the implementation of licensing services can run well and create a sense of justice for the society in order to achieve prosperity

### **Keywords**

Problem, Service, Indonesia, Permission, Management

## Introduction

In the life of defending the state, licensing is an important aspect because some activities carried out by the community must obtain permission from the state administration. Licensing is the granting of legality to a person or business actor or certain activity, either in the form of a license or a business registration certificate. Permits are one of the most widely used instruments in administrative law, to guide the behavior of citizens. In addition, permission can also be interpreted as a dispensation or release or exemption from a prohibition<sup>1</sup>. The definition of a permit in general is an agreement from the authorities based on laws or government regulations in certain circumstances which may deviate from some provisions of the prohibition of legislation. There is also the meaning of permission in a narrow sense as well as in a broad sense permits in the Broadest Meaning, All of which cause more or less the same result, namely that in a certain form given permission to do something that must be prohibited. In matters relating to the public interest, namely an agreement from the authorities based on laws or government regulations in certain circumstances which are clashed with provisions that deviate from the prohibition. Permission in the Narrow Meaning, an action is prohibited, unless permitted, with the aim that the provisions related to the case can be carefully given certain limits for each case<sup>2</sup>.

The definition of a permit in the dictionary of legal terms is that a permit is explained as a permit or permit from the government based on laws or government regulations that are required for actions that generally require special supervision, but which in general are not considered as things that are not at all desirable. According to Sjahran Basah, a permit is an act of State Administrative Law as something that applies regulations in concrete terms that are sourced from the requirements and procedures as stipulated by the laws and regulations. Permissions granted by the authorities greatly affect community activities because these permits allow someone to take certain actions that are actually prohibited. In the public interest requires supervision of the actions taken<sup>3</sup>. The licensing system establishes an order so that every activity carried out can be regulated in accordance with the law in which every action is not considered disgraceful but can be monitored<sup>4</sup>.

The permits needed by the community differ from one another depending on or according to their individual needs such as a permit to build a house, a license to drive for those who are 17 years old, a license to buy a vehicle, a license to

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<sup>1</sup> Bobby W. Chung, 'The Costs and Potential Benefits of Occupational Licensing: A Case of Real Estate License Reform', *Labour Economics*, 76 (2022), 102172 <<https://doi.org/10.1016/j.labeco.2022.102172>>.

<sup>2</sup> Alexandra Mallett and others, 'Environmental Impacts of Mining in Brazil and the Environmental Licensing Process: Changes Needed for Changing Times?', *The Extractive Industries and Society*, 8.3 (2021), 100952 <<https://doi.org/10.1016/j.exis.2021.100952>>.

<sup>3</sup> James C. Fell and Michael Scherer, 'Administrative License Suspension: Does Length of Suspension Matter?', *Traffic Injury Prevention*, 18.6 (2017), 577–84 <<https://doi.org/10.1080/15389588.2017.1293257>>.

<sup>4</sup> Golnar Ghane and others, 'Social Death in Patients: Concept Analysis with an Evolutionary Approach', *SSM - Population Health*, 14 (2021), 100795 <<https://doi.org/10.1016/j.ssmph.2021.100795>>.

establish a business, even investors who want to invest their capital. both domestic and foreign capital, all require review. As for the purpose of licensing, this depends on the concrete reality faced. However, in general it can be stated as follows desire to direct (control) certain activities, prevent harm to the environment, desire to protect certain objects, to share the few things, briefing by selecting people and activities, where the board must meet certain conditions<sup>5</sup>. So overall it can be understood that the main essence of licensing is to create an orderly, just and prosperous society<sup>6</sup>. However, in practice there are often complaints from the public regarding licensing services which are considered bad and inefficient because the process is long and lengthy. Even though the licensing has been regulated by the State Administrative Law (HAN), there are still many problems in the implementation of the permit, some of which come from the organizers themselves, thus harming the people who need the permit.

The convoluted and long licensing process makes people lazy to queue and finally take shortcuts by giving money to employees who work at the agency<sup>7</sup>. This is what ultimately leads to the practice of extortion, and as a result, people who apply for permits using the usual procedures will feel disappointed because they get unsatisfactory and slow public services. And this will also be a burden for people from the lower classes who need fast licensing services but are hampered by cost problems because there is no money to bribe the employees concerned. Meanwhile, it is difficult to pay for daily meals, but because this has become a kind of tradition and the employees sometimes do not have a high social spirit, the practice of extortion continues. This is a bad portrait of licensing services in Indonesia, many of which need to be addressed to return to the original licensing objective, namely the creation of an orderly, fair and prosperous society<sup>8</sup>.

### **Research Methods**

The type of research in this research is descriptive research, with a qualitative approach. Qualitative descriptive research is aimed at describing and describing existing phenomena, both natural and human engineered, which pays more attention to characteristics, quality, and interrelationships between activities. This research was also conducted to determine the value of independent variables, either one or more variables without making comparisons or connecting with other variables.

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5 Eric B. Yiadom, Lord Mensah, and Godfred A. Bokpin, 'Environmental Risk and Foreign Direct Investment: The Role of Financial Sector Development', *Environmental Challenges*, 9 (2022), 5 <<https://doi.org/10.1016/j.envc.2022.100611>>.

6 Jennifer Cole and Ginny Sprang, 'Post-Implementation of a Safe Harbor Law in the U.S.: Review of State Administrative Data', *Child Abuse & Neglect*, 101 (2020), 104320 <<https://doi.org/10.1016/j.chiabu.2019.104320>>.

7 Yiqian Zheng, Wen-Bin Shangguan, and Subhash Rakheja, 'Modeling and Performance Analysis of Convoluted Air Springs as a Function of the Number of Bellows', *Mechanical Systems and Signal Processing*, 159 (2021), 107858 <<https://doi.org/10.1016/j.ymssp.2021.107858>>.

8 Ahmad Siboy and others, 'The Effectiveness of Administrative Efforts in Reducing State Administration Disputes', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022) <<https://doi.org/10.53955/jhcls.v2i1.23>>.

## Results and Discussion

Licensing services in Indonesia are still bad, this can be seen from the problems that are often encountered such as integrated services with one door but many windows, making people lazy to queue and finally taking shortcuts by bribing employees who work at the agency to get fast service without having to queue. And this has long been a habit that if you want a fast-licensing process, there must be a compensation of a certain amount of money that must be given to agency officials. This of course creates injustice for the lower classes of society, who find it difficult to meet their daily needs<sup>9</sup>. However, the culture of extortion seems to have become commonplace among public service employees, especially in licensing issues<sup>10</sup>. There are even employees who openly ask for money from people who want to take care of licensing with the excuse of wanting to increase their income. There are still many licensing problems that often occur in Indonesia, for example Illegal levies or extortion also often occur in SIM making services where people who want to get a driver's license according to the procedure must undergo various tests, the most severe is the driving skills test which if it fails they have to repeat / take the exam again, this makes people reluctant and shortcuts are carried out with pay money to clerk to get SIM instantly and indeed there is loophole for that<sup>11</sup>. Of course, in this case it is very unjustifiable that it will be very dangerous for the safety of the driver, because the feasibility of driving has not been tested and can endanger the safety of others as well<sup>12</sup>.

The issue of business licensing is very decisive for foreign investors in seeing business opportunities in Indonesia. However, the licensing and non-licensing process in managing a business in Indonesia is very long and the costs are high. The business licensing process in Indonesia must be carried out in three stages, the first stage concerns business establishment permits, then investors must apply for permits related to the construction of business premises and there are still matters regarding business operations<sup>13</sup>. In terms of ease of doing business, Indonesia is still inferior to other countries, including ASEAN. No wonder many entrepreneurs are frustrated in managing business licensing in Indonesia<sup>14</sup>.

Investment problems in Indonesia are still many regulations that are not

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9 Donald N. Merino and Michael D. Antonucci, 'Evaluation of the Administrative Efficiency of Environmental Laws: A Statistical Analysis of the New Jersey ECRA Processing Times', *Journal of Hazardous Materials*, 33.3 (1993), 339–53 <[https://doi.org/10.1016/0304-3894\(93\)85084-R](https://doi.org/10.1016/0304-3894(93)85084-R)>.

10 Lars H. Gulbrandsen, Tor Håkon Jackson Inderberg, and Torbjørg Jevnaker, 'Is Political Steering Gone with the Wind? Administrative Power and Wind Energy Licensing Practices in Norway', *Energy Research & Social Science*, 74 (2021), 101963 <<https://doi.org/10.1016/j.erss.2021.101963>>.

11 Vivian Underhill and others, 'Outcomes of the Halliburton Loophole: Chemicals Regulated by the Safe Drinking Water Act in US Fracking Disclosures, 2014–2021', *Environmental Pollution*, 2022, 120552 <<https://doi.org/10.1016/j.envpol.2022.120552>>.

12 Kiky Kirina Abdillah, Azima Abdul Manaf, and Abd Hair Awang, 'Land Tenure Security for Low-Income Residents' Urban Livelihoods: A Human Development Approach Review of Temporary Occupation License', *Land Use Policy*, 119 (2022), 106223 <<https://doi.org/10.1016/j.landusepol.2022.106223>>.

13 Zainal Arifin Mochtar and Kardiansyah Afkar, 'President's Power, Transition, and Good Governance', *BESTUUR*, 10.1 (2022), 68 <<https://doi.org/10.20961/bestuur.v10i1.59098>>.

14 Awaludin Marwan, Diana Odier Contreras Garduno, and Fiammetta Bonfigli, 'Detection of Digital Law Issues and Implication for Good Governance Policy in Indonesia', *Bestuur*, 10.1 (2022), 22–32 <<https://doi.org/10.20961/bestuur.v10i1.59143>>.

clear, overlapping authorities and often change without prior notification. The lengthy and lengthy licensing process from registration to the requirements for permits, then the problem of extortion by agency employees makes foreign investors discourage from investing in Indonesia, although sometimes the licensing system has been made easy by the government.

Seeing the many problems that arise in the administration of licensing services, the government is aware of this, especially the government of the era of President Joko Widodo, which focuses on infrastructure, clearly requires a lot of investment into the country. Improvements for licensing improvements were also carried out, for example the three-hour licensing service that was carried out by the Investment Coordinating Board (BKPM) several years ago. Another effort made by the government is to issue a reduction in economic policy packages aimed at attracting investment and facilitating licensing in Indonesia. Until 2018, the government has issued 16 policy packages. Accompanied by deregulation - the deregulation of regulations that are considered to be the "culprit" of the complexity of licensing arrangements<sup>15</sup>. Then in order to improve services to the public in the field of licensing, the government also applies a *one-step integrated service*, namely licensing implementation activities whose management process starts from the application stage to the document issuance stage, served through one door and carried out in one place. The purpose of implementing one-stop integrated services is to improve the quality of public services, provide wider access to the public to obtain fast, effective, transparent and definite public services. And there are many more licensing regulations imposed by the government to overcome problems in licensing. Seeing all the regulations and policies imposed by the government to overcome licensing problems, it should be enough to overcome the problems that arise<sup>16</sup>. However, what has happened until now is that the quality of public services, especially in terms of licensing, is still far from quality. In fact, there are still many complaints from the public when they have to take care of licensing, especially in terms of service, namely there are still many illegal levies carried out by unscrupulous public service employees, especially licensing<sup>17</sup>.

This burdens the lower middle class people who have to prepare extra money to bribe officers, even though it is difficult for daily expenses. And what's worse is that it's not only the lower middle class who are affected, foreign investors who want to invest in Indonesia, but because of the large number of employees who commit extortion, these foreign investors discourage their intention to invest in Indonesia, even though sometimes the licensing system has been made easy by the government. From this problem, it is very clear that the poor licensing in Indonesia, one of which is the factor of the unscrupulous public service employees themselves, many employees do not have a high social spirit to devote

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15 Mochtar and Afkar.

16 Syahlan Syahlan, 'Effective and Efficient Synchronization in Harmonization of Regulations Indonesia', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) <<https://doi.org/10.53955/jhcls.v1i1.7>>.

17 Bjørn Hersoug, "'One Country, Ten Systems" - The Use of Different Licensing Systems in Norwegian Aquaculture', *Marine Policy*, 137 (2022), 104902 <<https://doi.org/10.1016/j.marpol.2021.104902>>.

themselves to society because of their individualistic spirit to enrich themselves so that they override the guidelines they should have. do when you get the job<sup>18</sup>.

To overcome this, there needs to be firm action from law enforcement officials so that the culture of extortion can be eliminated, because the practice of illegal levies has damaged the joints of social life, besides that it is also necessary for the role of the community to care about improving public services by participating in supervising the supervision of public servants<sup>19</sup>. This is in accordance with Law Number 25 of 2009 concerning Public Services Article 39 which explains that the community should be included starting from the preparation of service standards to evaluating the implementation of public services. Besides that, the public must also have the courage to report if they experience poor public services by public service providers, so that reports or complaints related to public services are expected to improve and improve the quality of public services<sup>20</sup>. And most importantly, the government should improve the licensing system in Indonesia so that licensing is easier and there are not too many conditions put forward to the public.

### Conclusion

From the material described above, it can be concluded that the root causes of licensing problems in Indonesia are licensing that is still complicated and the practice of illegal levies that still exist in each of these licensing agencies. So far, the government has focused more on unraveling the complexity of licensing procedures which have been considered too long-winded and complicated, but the government, especially law enforcement officers, has not strictly taken action against individual licensing service employees who practice illegal levies (extortion) so that until now the practice of extortion is still ongoing. When this happens, it can be seen from the many complaints from the public regarding the slowness of licensing services if they take care of it in the usual way without bribing the officers.

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